

### REMARKS/ARGUMENTS

Applicants respectfully request further examination and reconsideration in view of the instant response. The claims remaining in the present application are Claims 1-4, 6, 9-11, 16, 17, 20, 25-27, 29-33 and 35. Claims 1-4, 6, 9-11, 16, 17, 20, 25-27, 29-33 and 35 are rejected. Claim 1 is amended herein. No new matter has been added.

### CLAIM REJECTIONS – 35 U.S.C. § 112

#### Claim 1

Claim 1 rejected under 35 U.S.C. 112, second paragraph “as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention” (page 3). In particular, “a first transmission from a wireless device by said mobile device” is confusing to the Examiner.

Applicants have amended Claim 1 such that the instances of “a wireless device” have been removed. Therefore, Claim 1 overcomes the rejection under 35 U.S.C. 112, second paragraph.

### CLAIM REJECTIONS – 35 U.S.C. §103(a)

#### Claims 1-4, 6, 9-11, 16, 17, 20, 25-27, 29-33 and 35

The instant Office Action states that Claims 1-4, 6, 9-11, 16, 17, 20, 25-27, 29-33 and 35 are rejected under 35 U.S.C. §103(a) as being unpatentable over Spies et al. (US 6,055,314), hereinafter referenced as “Spies,” and further in view of Inoue et al.

(US 6,501,767), hereinafter referenced as “Inoue.” Applicants respectfully submit that the embodiments of the present invention as recited in Claims 1-4, 6, 9-11, 16-17, 20, 26, 27, 29-33 and 35 are patentable over the combination of Spies and Inoue for at least the following rationale.

“As reiterated by the Supreme Court in *KSR*, the framework for the objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). Obviousness is a question of law based on underlying factual inquiries” including “[a]scertaining the differences between the claimed invention and the prior art” (MPEP 2141(II)). “In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious” (emphasis in original; MPEP 2141.02(I)). Applicants note that “[t]he prior art reference (or references when combined) need not teach or suggest all the claim limitations, however, Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art” (emphasis added; MPEP 2141(III)).

Moreover, Applicants respectfully note that “[a] prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention” (emphasis in original; MPEP 2141.02(VI); *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984)).

Applicants respectfully submit that Spies and Inoue teach away from their combination.

In regards to Spies, Applicants understand Spies to disclose a provider computing unit 34 (fig. 1) that is not a mobile device. In particular, Spies discloses “[e]xamples of a video content provider 22 includes a cable operator, a television station, and a movie studio” (col. 4, lines 65-57). Also, “[t]he provider computer unit 34 might be configured as a continuous media server that transmits video programs over a distribution network” (col. 5, lines 25-29). Moreover, Applicants understand Spies to disclose “a video payload 74...[t]he payload 74 contains a segment of video data” (col. 9, lines 53-57).

In regards to Inoue, Applicants understand Inoue to disclose “[a] mobile IP communication scheme for supporting a mobile computer moving over different address spaces” (emphasis added; abstract). Therefore, because (1) Inoue discloses a mobile computer moving over different address spaces and (2) Spies discloses a stationary (e.g., non-mobile) server for distribution of large quantities of video for a cable operator, a television station and/or a movie studio, Applicants respectfully submit that Spies and Inoue teach away from their combination.

Applicants respectfully submit that the combination of Spies and Inoue, as a whole, does not satisfy a *prima facie* case of obviousness under 35 U.S.C. §103(a).

Therefore, Applicants respectfully submit that Claims 1, 6, 10 and 29 are in a condition for allowance. Applicants respectfully submit that the combination of Spies and Inoue also does not render obvious the additional claimed features as recited in Claims 2-4, 9, 11, 16, 17, 20, 25- 27, 30-33 and 35 that depend on Claims 1, 6, 10 and 29, respectively. Therefore, Claims 2-4, 9, 11, 16, 17, 20, 25- 27, 30-33 and 35 are in a condition for allowance as being dependent on an allowable base claim.

### CONCLUSION

In light of the above remarks, Applicants respectfully request reconsideration of the rejected claims.

Based on the arguments presented above, Applicants respectfully assert that Claims 1-4, 6, 9-11, 16, 17, 20, 25-27, 29-33 and 35 overcome the rejections of record, and therefore Applicants respectfully solicits allowance of these claims.

The Examiner is invited to contact Applicants' undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

Respectfully submitted,

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